United States District Court
for the
District of Massachusetts

HECTOR PINEIRO, Plaintiff v. GARY GEMME, WORCESTER CHIEF of POLICE and the CITY OF WORCESTER, Defendants	)	Civil Action No. 4-10-CV-40262-FDS

Motion To Strike Under Fed.R.Civ.P. 12(f) or
For a More Definite Statement Under Fed.R.Civ.P. 12(e)

Now come the Defendants Gary Gemme, Worcester Chief of Police, and the City of Worcester, by and through their undersigned counsel, and hereby respectfully move this Court, pursuant to Fed. R. Civ. P. 12(f), to strike the Plaintiff's Complaint as replete with immaterial, impertinent and redundant matters so as to constitute a flagrant violation of the requirements of Fed. R. Civ. P. 8(d)(1) that allegations in a complaint be "simple, concise and direct" and of Fed. R. Civ. P. 8(a)(2) that a claim for relief "must contain … a short and plain statement showing that the pleader is entitled to relief."

In the alternative, Defendants respectfully move this Court pursuant to Fed. R. Civ. P. 12(e) to order the Plaintiff to remove all immaterial, impertinent and redundant matters from his Complaint and provide the Defendants a complaint with allegations which are simple, concise and direct.

In support of this Motion, Defendants refer the Court to their Memorandum of Reasons filed herewith.

GARY GEMME, and
CITY OF WORCESTER,

By their attorney,

/s/ David M. Moore

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CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(A)(2)

I, David M. Moore, hereby certify that Defendants' counsel has complied with Local Rule 7.1(A)(2) by advising opposing counsel that the within Motion would be filed and attempting in good faith to resolve or narrow the issue; however, Defendants' counsel recognizes that, as the present Motion requests the withdrawal of Plaintiff's complaint, that it is a rather futile exercise to confer to narrow the issues given the unlikelihood that Plaintiff would be willing to withdraw the pleading.

/s/ David M. Moore
David M. Moore
City Solicitor

CERTIFICATE OF SERVICE

I, David M. Moore, hereby certify that on this 24th day of January, 2011, I served the within Defendants' Motion to Strike upon Plaintiff by providing a copy of the same to Plaintiff's counsel of record, Hector E. Pineiro, Esq., via the United States District Court's electronic notification system.

/s/ David M. Moore
David M. Moore
City Solicitor